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Attorneys for Defendants Nike, Inc. and Converse Inc.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
WILLIAM G. CUMMINGS and
JAY G. LEVINE,

Plaintiffs,

v.

ADIDAS USA, et al.,

Defendants.
-----X

Case No.: 08-CV-9860(SAS)

**DEFENDANTS NIKE, INC. AND CONVERSE INC.'S NOTICE OF MOTION AND
MOTION FOR PARTIAL SUMMARY JUDGMENT**

PLEASE TAKE NOTICE that on a date and time to be determined by the Court, defendants Nike, Inc. ("Nike") and Converse Inc. ("Converse"), through their undersigned counsel, will and hereby do move this Court for summary judgment, pursuant to Federal Rule of Civil Procedure 56, that Claims 5 and 6 of plaintiffs William G. Cummings and Jay G. Levine's U.S. Patent No. RE40,215E ("the '215 Patent") are invalid as a matter of law.

This motion is based upon the accompanying Memorandum in Support of this Motion, the exhibits identified in the Index of Exhibits to the Memorandum in Support, the declarations of Gentry Humphrey, Jim Grove, Forbes Campbell, Peter Orcutt and Tanya Dix, Nike and Converse's Local Rule 56.1 Statement of Material Facts, all being filed with the Court under seal, and all other papers and pleadings on file, and on such other additional arguments and evidence as may be presented to the Court.

Dated: January 13, 2009

Respectfully Submitted,

By: 

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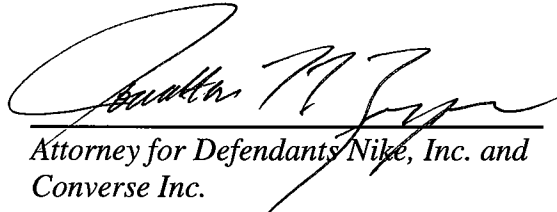
*Counsel for Defendants
Nike, Inc. and Converse Inc.*

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing DEFENDANTS NIKE, INC. AND CONVERSE INC.'S NOTICE OF MOTION AND MOTION FOR PARTIAL SUMMARY JUDGMENT was filed with the Court via the ECF filing system and sent via electronic mail this 13th day of January, 2010, to:

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